

Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

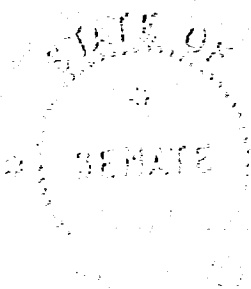
CHAPTER 86

SENATE BILL 1062

AN ACT

AMENDING SECTIONS 32-1501 AND 32-1581, ARIZONA REVISED STATUTES; RELATING TO
THE NATUROPATHIC PHYSICIANS BOARD OF MEDICAL EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1501, Arizona Revised Statutes, is amended to
3 read:

4 32-1501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Accepted therapeutic purpose" means treatment of a disease,
7 injury, ailment or infirmity that is competent and generally recognized as
8 safe and effective.

9 2. "Active license" means a current valid license to practice
10 naturopathic medicine.

11 3. "Adequate medical records" means medical records containing
12 sufficient information to identify the patient, the diagnosis and the
13 treatment prescribed.

14 4. "Approved clinical training program" or "clinical training program"
15 means a program for naturopathic medical students in which the training
16 occurred or is being conducted by or in conjunction with an approved school
17 of naturopathic medicine.

18 5. "Approved internship program" or "internship" means that the
19 program in which the training occurred or is being conducted has been
20 approved for internship training for physicians or for graduates of a school
21 of naturopathic medicine by the board or was approved or accredited by an
22 educational or professional association recognized by the board or by another
23 state's or country's licensing agency recognized by the board.

24 6. "Approved postdoctoral training" or "postdoctoral training" means
25 that the program in which the training occurred or is being conducted has
26 been approved for specialty training or for graduate medical education in
27 naturopathic medicine by the board or approved or accredited by an
28 educational or professional association recognized by the board or by another
29 state's or country's licensing agency recognized by the board.

30 7. "Approved preceptorship program" or "preceptorship" means that the
31 program in which the training occurred or is being conducted has been
32 approved for preceptorship training for physicians or for graduates of a
33 school of naturopathic medicine by the board or was approved or accredited by
34 an educational or professional association recognized by the board or by
35 another state's or country's licensing agency recognized by the board.

36 8. "Approved school of naturopathic medicine" or "school of
37 naturopathic medicine" means a school or college determined by the board to
38 have an educational program that meets standards prescribed by the council on
39 naturopathic medical education, or its successor agency, and that offers a
40 course of study that, on successful completion, results in the awarding of
41 the degree of doctor of naturopathic medicine and whose course of study is
42 either of the following:

43 (a) Accredited or a candidate for accreditation by an accrediting
44 agency recognized by the United States secretary of education as a

1 specialized accrediting agency for schools of naturopathic medicine or its
2 successor.

3 (b) Accredited or a candidate for accreditation by an accrediting
4 agency recognized by the council for higher education accreditation or its
5 successor.

6 9. "Board" means the naturopathic physicians board of medical
7 examiners.

8 10. "Chelation therapy" means an experimental medical therapy to
9 restore cellular homeostasis through the use of intravenous, metal-binding
10 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
11 therapy does not include experimental therapy used to treat heavy metal
12 poisoning.

13 11. "Completed application" means that the applicant paid the required
14 fees and supplied all documents and information as requested by the board and
15 in a manner acceptable to the board.

16 12. "Controlled substance" means a drug, substance or immediate
17 precursor in schedules I through V of title 36, chapter 27, article 2.

18 13. "Direct supervision" means that a physician who is licensed
19 pursuant to this chapter or chapter 13, 17 or 29 of this title:

20 (a) Is physically present and within sight or sound of the person
21 supervised and is available for consultation regarding procedures that the
22 physician has authorized and for which the physician remains responsible.

23 (b) Has designated a person licensed pursuant to this chapter or
24 chapter 13, 17 or 29 of this title to provide direct supervision in the
25 physician's absence.

26 14. "Doctor of naturopathic medicine" OR "DOCTOR" means a natural
27 person licensed to practice naturopathic medicine under this chapter.

28 15. "Drug" has the same meaning prescribed in section 32-1901 but does
29 not include:

30 (a) Intravenous administration of legend drugs, except for:

31 (i) Vitamins, chelation therapy and drugs used in emergency
32 resuscitation and stabilization.

33 (ii) MINERALS.

34 (b) Controlled substances listed as schedule I or II controlled
35 substances as defined in the federal controlled substances act of 1970 (21
36 United States Code section 802), except morphine and any homeopathic
37 preparations that are also controlled substances.

38 (c) Cancer chemotherapeutics classified as legend drugs.

39 (d) Antipsychotics.

40 16. "General supervision" means that the physician is available for
41 consultation regarding procedures that the physician has authorized and for
42 which the physician remains responsible.

43 17. "Legend drug" means any drug defined by section 503(b) of the
44 federal food, drug and cosmetic act and under which definition its label is
45 required to bear the statement "Rx only".

1 18. "Letter of concern" means a nondisciplinary advisory letter that is
2 issued by the board to a person who is regulated under this chapter and that
3 states that while there is insufficient evidence to support disciplinary
4 action the board believes that the person should modify or eliminate certain
5 practices and that continuation of the activities that led to the information
6 being submitted to the board may result in action against the person's
7 license, certificate or registration.

8 19. "Letter of reprimand" means a disciplinary letter that is issued by
9 the board and that informs a person who is regulated under this chapter that
10 the person's conduct violates state or federal law but does not require the
11 board to restrict the person's license, certificate or registration because
12 the person's conduct did not result in harm to a patient or to the public.

13 20. "Limit" means TAKING a nondisciplinary action that alters the
14 physician's practice or professional activities if the board determines that
15 there is evidence that the physician is or may be mentally or physically
16 unable to safely engage in the practice of medicine.

17 21. "Medical assistant" or "naturopathic medical assistant" means a
18 person who is certified by the board as a medical assistant, who assists a
19 doctor of naturopathic medicine and who may perform delegated procedures that
20 are commensurate with the assistant's education and training under the direct
21 supervision of a doctor of naturopathic medicine and that do not include
22 diagnosing, designing or modifying established treatment programs or those
23 procedures prohibited by the board or by this chapter.

24 22. "Medically incompetent" means a person who is licensed, certified
25 or registered pursuant to this chapter and who lacks sufficient naturopathic
26 medical knowledge or skills, or both, to a degree that is likely to endanger
27 the health of patients.

28 23. "Naturopathic medical student" means a person who is enrolled in a
29 course of study at an approved school of naturopathic medicine.

30 24. "Naturopathic medicine" means medicine as taught in approved
31 schools of naturopathic medicine and in clinical, internship, preceptorship
32 and postdoctoral training programs approved by the board and practiced by a
33 recipient of a degree of doctor of naturopathic medicine licensed pursuant to
34 this chapter.

35 25. "Nurse" means a person licensed pursuant to chapter 15 of this
36 title.

37 26. "Physician" means a doctor of naturopathic medicine licensed
38 pursuant to this chapter.

39 27. "Practice of naturopathic medicine" means a medical system of
40 diagnosing and treating diseases, injuries, ailments, infirmities and other
41 conditions of the human mind and body including by natural means, drugless
42 methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic
43 and sanitary measures and all forms of physical agents and modalities.

44 28. "Restrict" means TAKING a disciplinary action that alters the
45 physician's practice or professional activities if the board determines that

1 there is evidence that the physician is or may be medically incompetent or
2 guilty of unprofessional conduct.

3 29. "Specialist" means a physician who has successfully completed
4 approved postdoctoral training, who is certified by a specialty board of
5 examiners recognized by the board and who is certified by the board to
6 practice the specialty pursuant to this chapter.

7 30. "Unprofessional conduct" includes the following, whether occurring
8 in this state or elsewhere:

9 (a) Intentionally disclosing a professional secret or intentionally
10 disclosing a privileged communication except as either of these may otherwise
11 be required by law.

12 (b) Any dishonorable conduct reflecting unfavorably on the profession.

13 (c) Committing a felony, whether or not involving moral turpitude, or
14 a misdemeanor involving moral turpitude. In either case conviction by any
15 court of competent jurisdiction or a plea of no contest is conclusive
16 evidence of the commission of the felony or misdemeanor.

17 (d) Habitual intemperance in the use of alcohol or any substance
18 abuse.

19 (e) The illegal use of any narcotic or hypnotic drugs, or illegal
20 substances.

21 (f) Conduct that the board determines is gross malpractice, repeated
22 malpractice or any malpractice resulting in the death of a patient.

23 (g) Impersonating another doctor of naturopathic medicine or any other
24 practitioner of the healing arts.

25 (h) Falsely acting or assuming to act as a member, an employee or an
26 authorized agent of the board.

27 (i) Procuring or attempting to procure a license or a certificate
28 pursuant to this chapter by fraud, by misrepresentation or by knowingly
29 taking advantage of the mistake of another person or agency.

30 (j) Having professional connection with or lending one's name to
31 enhance or continue the activities of an illegal physician or an illegal
32 practitioner of any healing art.

33 (k) Representing that a manifestly incurable disease, injury, ailment
34 or infirmity can be permanently cured, or falsely or fraudulently
35 representing that a curable disease, injury, ailment or infirmity can be
36 cured within a stated time.

37 (l) Offering, undertaking or agreeing to cure or treat a disease,
38 injury, ailment or infirmity by a secret means, method, treatment, medicine,
39 substance, device or instrumentality.

40 (m) Refusing to divulge to the board upon ON demand the means, method,
41 treatment, medicine, substance, device or instrumentality used in the
42 treatment of a disease, injury, ailment or infirmity.

43 (n) Giving or receiving, or aiding or abetting the giving or receiving
44 of, rebates, either directly or indirectly.

1 (o) Knowingly making any false or fraudulent statement, written or
2 oral, in connection with the practice of naturopathic medicine or any
3 naturopathic treatment method.

4 (p) Immorality or misconduct that tends to discredit the naturopathic
5 profession.

6 (q) Refusal, revocation or suspension of a license by any other state,
7 district or territory of the United States or any other country, unless it
8 can be shown that this action was not due to reasons that relate to the
9 ability to safely and skillfully practice as a doctor of naturopathic
10 medicine or to any act of unprofessional conduct in this paragraph.

11 (r) Any conduct or practice that is contrary to recognized standards
12 of ethics of the naturopathic profession, any conduct or practice that does
13 or might constitute a danger to the health, welfare or safety of the patient
14 or the public, or any conduct, practice or condition that does or might
15 impair the ability to safely and skillfully practice as a doctor of
16 naturopathic medicine.

17 (s) Failure to observe any federal, state, county or municipal law
18 relating to public health as a physician in this state.

19 (t) Violating or attempting to violate, directly or indirectly, or
20 assisting in or abetting the violation of, or conspiring to violate any of
21 the provisions of this chapter or board rules.

22 (u) False, fraudulent, deceptive or misleading advertising or
23 advertising the quality of a medical or health care service by a physician or
24 by the physician's staff, employer or representative.

25 (v) Failing or refusing to maintain adequate medical records on a
26 patient or failing or refusing to make medical records in the physician's
27 possession promptly available to another physician or health care provider
28 who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on
29 request and receipt of proper authorization to do so from the patient, a
30 minor patient's parent, the patient's legal guardian or the patient's
31 authorized representative or failing to comply with title 12, chapter 13,
32 article 7.1.

33 (w) Referring a patient to a diagnostic or treatment facility or
34 prescribing goods and services without disclosing in writing to the patient
35 that the physician has a pecuniary interest in the facility, goods or
36 services to which the patient is referred or prescribed. This subdivision
37 does not apply to a referral by one physician or practitioner to another
38 physician or practitioner within a group of physicians or practitioners
39 practicing together.

40 (x) Sexual intimacies with a patient in the course of direct
41 treatment.

42 (y) Failing to dispense drugs and devices in compliance with article 4
43 of this chapter.

44 (z) Administering, dispensing or prescribing any drug or a device for
45 other than an accepted therapeutic purpose.

1 (aa) Falsely representing or holding oneself out as being a specialist
2 or representation by a doctor of naturopathic medicine or the doctor's staff,
3 employer or representative that the doctor is boarded or board certified if
4 this is not true or that standing is not current.

5 (bb) Delegating professional duties and responsibilities to a person
6 if the person has not been approved or qualified by licensure or by
7 certification to perform these duties or responsibilities.

8 (cc) Failing to appropriately supervise a naturopathic medical
9 student, a nurse, a medical assistant, a health care provider or a technician
10 employed by or assigned to the physician during the performance of delegated
11 professional duties and responsibilities.

12 (dd) Using experimental forms of diagnosis or treatment without
13 adequate informed consent of the patient or the patient's legal guardian and
14 without conforming to experimental criteria including protocols, detailed
15 records, periodic analysis of results and periodic review by a medical peer
16 review committee as approved by the federal food and drug administration or
17 its successor agency.

18 (ee) Failing to furnish information in a timely manner to the board or
19 investigators or representatives of the board if this information is legally
20 requested by the board and failing to allow properly authorized board
21 personnel on demand to examine and have access to documents, reports and
22 records maintained by the physician that relate to the physician's medical
23 practice or medically related activities.

24 (ff) Failing to report in writing to the board evidence that a person
25 licensed, certified or registered pursuant to this chapter is or may be
26 medically incompetent, guilty of unprofessional conduct or mentally or
27 physically unable to safely practice or assist in the practice of
28 naturopathic medicine.

29 (gg) Conducting or engaging in an internship, preceptorship or
30 clinical training program in naturopathic medicine without being approved and
31 registered by the board for that internship, preceptorship or clinical
32 training program.

33 (hh) Signing a blank, undated or predated prescription form.

34 (ii) Conduct that the board determines is gross negligence, repeated
35 negligence or negligence resulting in harm or death to a patient.

36 (jj) Knowingly making a false or misleading statement in oral
37 testimony to the board on a form required by the board or in written
38 correspondence to the board, including attachments to that correspondence.

39 (kk) The failure of a physician who is the chief medical officer, the
40 executive officer or the chief of staff of an internship, a preceptorship or
41 a clinical training program to report in writing to the board that the
42 privileges of a doctor of naturopathic medicine, a naturopathic medical
43 student or a medical assistant have been denied, limited, revoked or
44 suspended because that doctor's, student's or assistant's actions appear to
45 indicate that the person is or may be medically incompetent, is or may be

1 guilty of unprofessional conduct or is or may be unable to safely engage or
2 assist in the practice of naturopathic medicine.

3 (ll) Action taken against a doctor of naturopathic medicine by a
4 licensing or regulatory board in another jurisdiction due to that doctor's
5 mental or physical inability to engage safely in the practice of naturopathic
6 medicine, the doctor's medical incompetence or for unprofessional conduct as
7 defined by that licensing or regulatory board and that corresponds directly
8 or indirectly to an act of unprofessional conduct prescribed by this
9 paragraph. The action taken may include refusing, denying, revoking or
10 suspending a license, otherwise limiting, restricting or monitoring a
11 licensee or placing a licensee on probation by that licensing or regulatory
12 board.

13 (mm) Sanctions imposed by an agency of the federal government,
14 including restricting, suspending, limiting or removing a person from the
15 practice of naturopathic medicine or restricting that person's ability to
16 obtain financial remuneration.

17 (nn) Violating any formal order, probation, consent agreement or
18 stipulation issued or entered into by the board pursuant to this chapter.

19 (oo) Refusing to submit to a body fluid examination pursuant to a
20 board investigation of alleged substance abuse by a doctor of naturopathic
21 medicine.

22 (pp) Charging a fee for services not rendered or dividing a
23 professional fee for patient referrals among health care providers or health
24 care institutions or between these providers and institutions or a
25 contractual arrangement that has this effect.

26 (qq) Obtaining a fee by fraud, deceit or misrepresentation.

27 (rr) Charging or collecting a clearly excessive fee. In determining
28 if a fee is clearly excessive the board shall consider the fee or range of
29 fees customarily charged in this state for similar services, in light of
30 modifying factors such as the time required, the complexity of the service
31 and the skill required to perform the service properly. This subdivision
32 does not apply if there is a clear written contract for a fixed fee between
33 the physician and the patient that was entered into before the service was
34 provided.

35 (ss) With the exception of heavy metal poisoning, using chelation
36 therapy in the treatment of arteriosclerosis or as any other form of therapy
37 without adequate informed patient consent and without conforming to generally
38 accepted experimental criteria, including protocols, detailed records,
39 periodic analysis of results and periodic review by a medical peer review
40 committee.

41 (tt) Using a controlled substance unless it is prescribed by another
42 physician for use during a prescribed course of treatment.

43 (uu) Prescribing, dispensing or administering anabolic androgenic
44 steroids for other than therapeutic purposes.

1 (vv) Except in an emergency or urgent care situation, prescribing or
2 dispensing a controlled substance to a member of the naturopathic physician's
3 immediate family.

4 (ww) Prescribing, dispensing or furnishing a prescription medication
5 or a prescription-only device as defined in section 32-1901 to a person
6 unless the licensee first conducts a physical examination of that person or
7 has previously established a doctor-patient relationship. This subdivision
8 does not apply to:

9 (i) A licensee who provides temporary patient supervision on behalf of
10 the patient's regular treating licensed health care professional.

11 (ii) An emergency medical situation as defined in section 41-1831.

12 (iii) Prescriptions written to prepare a patient for a medical
13 examination.

14 (iv) Prescriptions written or prescription medications issued for use
15 by a county or tribal public health department for immunization programs,— OR
16 emergency treatment,— OR in response to an infectious disease investigation,
17 a public health emergency, an infectious disease outbreak or an act of
18 bioterrorism. For the purposes of this item, "bioterrorism" has the same
19 meaning prescribed in section 36-781.

20 Sec. 2. Section 32-1581, Arizona Revised Statutes, is amended to read:

21 32-1581. Dispensing of natural substances, drugs and devices;
22 conditions; civil penalty; dispensing minerals;
23 definitions

24 A. A doctor of naturopathic medicine may dispense a natural substance,
25 drug or device to a patient for a condition being diagnosed or treated by the
26 doctor if:

27 1. The doctor is certified to dispense by the board and the
28 certificate has not been suspended or revoked by the board.

29 2. The natural substance, drug or device is dispensed and properly
30 labeled with the following dispenser information:

31 (a) The dispensing doctor's name, address and telephone number and a
32 prescription number or other method of identifying the prescription.

33 (b) The date the natural substance, drug or device is dispensed.

34 (c) The patient's name.

35 (d) The name and strength of the natural substance, drug or device,
36 directions for proper and appropriate use and any cautionary statements for
37 the natural substance, drug or device. If a generic drug is dispensed the
38 manufacturer's name must be included.

39 3. The dispensing doctor enters into the patient's medical record the
40 name and strength of the natural substance, drug or device dispensed, the
41 date the natural substance, drug or device is dispensed and the therapeutic
42 reason.

43 4. The dispensing doctor keeps all prescription-only drugs, controlled
44 substances and prescription-only devices in a secured cabinet or room,

1 controls access to the cabinet or room by a written procedure and maintains
2 an ongoing inventory of its contents.

3 B. Except in an emergency, a doctor of naturopathic medicine who
4 dispenses a natural substance, drug or device without being certified to
5 dispense by the board is subject to a civil penalty by the board of not less
6 than three hundred dollars and not more than one thousand dollars for each
7 transaction and may be prohibited from further dispensing for a period of
8 time as determined by the board.

9 C. Before dispensing a natural substance, drug or device pursuant to
10 this section, the treating doctor shall give the patient or the patient's
11 legal guardian a written prescription and must inform the patient or the
12 patient's legal guardian that the prescription may be filled by the
13 prescribing doctor or the pharmacy of the patient's choice. If the patient
14 chooses to have the medication dispensed by the doctor, the doctor must
15 retrieve the written prescription and place it in a prescription file kept by
16 the doctor.

17 D. A doctor of naturopathic medicine shall provide direct supervision
18 of a nurse or attendant involved in the dispensing process. In this
19 subsection, "direct supervision" means that a doctor of naturopathic medicine
20 is present and makes the determination as to the necessary use or the
21 advisability of the natural substance, drug or device to be dispensed.

22 E. THE BOARD SHALL ENFORCE this section ~~shall be enforced by the~~
23 ~~board~~. The board shall adopt rules regarding the dispensing of a natural
24 substance, drug or a device including the labeling, record keeping, storage
25 and packaging of natural substances that are consistent with the requirements
26 of chapter 18 of this title. The board may conduct periodic inspections of
27 dispensing practices to assure compliance with this section and applicable
28 rules.

29 F. This section does not prevent a licensed practical or professional
30 nurse employed by a doctor of naturopathic medicine from assisting in the
31 delivery of natural substances, drugs and devices in accordance with the
32 ~~provisions of this chapter~~.

33 G. BEFORE PRESCRIBING OR DISPENSING A MINERAL TO A PATIENT, THE
34 TREATING PHYSICIAN SHALL PERFORM NECESSARY CLINICAL EXAMINATIONS AND
35 LABORATORY TESTS TO PREVENT TOXICITY DUE TO THE EXCESSIVE INTAKE OF
36 MAGNESIUM, CALCIUM AND OTHER MINERALS. THE BOARD SHALL ADOPT RULES NECESSARY
37 FOR THE SAFE ADMINISTRATION OF MINERALS. THESE RULES SHALL REQUIRE PRIOR
38 CERTIFICATION OF A PHYSICIAN WHO PRESCRIBES OR DISPENSES MINERALS TO A
39 PATIENT.

40 ~~G.~~ H. For the purposes of this section:

41 1. "Device" means an appliance, apparatus or instrument administered
42 or dispensed to a patient by a doctor of naturopathic medicine.

43 2. "Dispense" means the delivery by a doctor of naturopathic medicine
44 of a natural substance, drug or device to a patient and only for a condition
45 being diagnosed or treated by that doctor, except for free samples packaged

1 for individual use by licensed manufacturers or repackagers, and includes the
2 prescribing, administering, packaging, labeling and security necessary to
3 prepare and safeguard the natural substance, drug or device for delivery to
4 the treating doctor's own patient.

5 3. "Natural substance" means a homeopathic, botanical or nutritional
6 supplement that does not require a prescription by federal law before it is
7 dispensed, but is prescribed to treat a medical condition diagnosed by the
8 doctor.

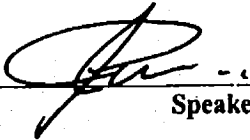
APPROVED BY THE GOVERNOR APRIL 18, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.

Passed the House April 11, 20 05,

by the following vote: 56 Ayes,

2 Nays, 2 Not Voting



Speaker of the House

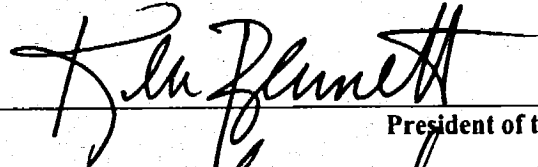


Chief Clerk of the House

Passed the Senate February 15, 20 05,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting



President of the Senate



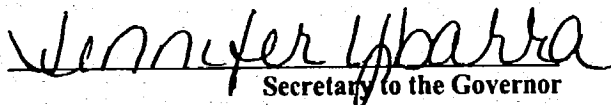
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12th day of April, 20 05

at 12:39 o'clock P. M.

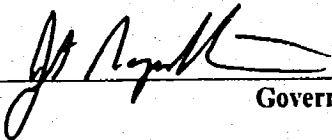


Secretary to the Governor

Approved this 18 day of

April, 20 05,

at 1:42 o'clock P. M.



Governor of Arizona

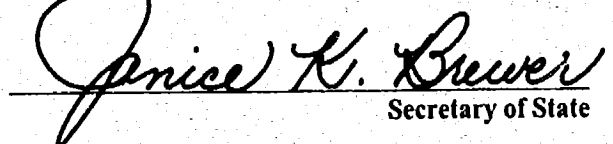
S.B. 1062

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 20 05,

at 4:42 o'clock P. M.



Secretary of State